

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

OTIS THOMAS,

Plaintiff,

v.

M.S. EVANS, Warden, et al.,

Defendants.

No. C 06-3581 MMC (PR)

**ORDER DENYING MOTION FOR TRIAL  
SCHEDULING ORDER; SETTING  
BRIEFING SCHEDULE FOR FILING OF  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT ON GROUNDS  
OF QUALIFIED IMMUNITY**

(Docket No. 84)

On June 5, 2006, plaintiff, a California prisoner currently incarcerated at Centinela State Prison and proceeding pro se, filed the above-titled civil rights action under 42 U.S.C. § 1983, alleging the violation of his constitutional rights by prison officials at Salinas Valley State Prison ("SVSP").

In its Order Granting Defendants' Motion for Summary Judgment, filed February 24, 2009, the Court granted summary judgment in favor of all defendants on plaintiff's First Amendment, Eighth Amendment and equal protection claims. (Docket No. 62.) On appeal, the Ninth Circuit, in an opinion filed July 26, 2010, reversed the Court's grant of summary judgment on the Eighth Amendment claim and remanded the matter for further proceedings. See Thomas v. Ponder, 611 F.3d 1144 (9th Cir. 2010). Thereafter, the Court referred the

1 matter to Magistrate Judge Nandor Vadas for settlement proceedings, which proceedings  
2 took place on March 22, 2011. The parties did not reach a settlement agreement.

3 Now pending before the Court are plaintiff's motion to set the case for trial and  
4 defendants' request to set a briefing schedule for the "anticipated" filing of a motion for  
5 summary judgment on grounds of qualified immunity. (Docket No. 85.) Defendants state  
6 the filing of such motion is "anticipated" because, two days after the settlement conference,  
7 defendants mailed a written settlement offer to plaintiff in the hope that the parties can  
8 resolve this case without further litigation.

9 Good cause appearing, plaintiff's request to set the matter for trial is hereby DENIED  
10 as premature. Further, the Court hereby SETS the following briefing schedule for the filing  
11 by defendants of a motion for summary judgment on grounds of qualified immunity:

12 Defendants shall file their motion for summary judgment no later than May 10, 2011.

13 Plaintiff shall file his opposition or a statement of non-opposition to defendants'  
14 motion no later than June 10, 2011.

15 Defendants shall file a reply to plaintiff's opposition no later than June 27, 2011.

16 This order terminates Docket No. 84.

17 IT IS SO ORDERED.

18 DATED: April 1, 2011

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20 MAXINE M. CHESNEY  
21 United States District Judge  
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